

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

D/F

X

CAROL PHOOMAHAL, et al.,

Plaintiffs,

-against-

ORDER

CV 04-2083(SDF)(ARL)

RIDGEHAVEN VILLAGE, et al.,

Defendants.

X

FEUERSTEIN, J.

On May 14, 2004, plaintiffs Carol Phoomahal and Long Island Housing Services, Inc. (plaintiffs) filed a complaint against defendants Ridgehaven Village, Brookwood Management Company, Harvey Auerbach, Michael Barone, Turhan "Tutu" Hollington, Jean Walter, DeVonne Turner, Deborah Edmondson, and Joy Rodriguez (collectively, defendants), alleging violations of the Fair Housing Act, 42 U.S.C. §§ 3604 and 3617; 42 U.S.C. §§ 1982, 1985 and 1986; their rights under the Fourteenth Amendment to the United States Constitution; the New York State Human Rights Law, New York State Executive Law § 296; and the Suffolk County Human Rights Law, as well as state law claims for intentional infliction of emotional distress, assault and battery, private nuisance, defamation and harassment. On August 30, 2004 and December 27, 2004, plaintiffs filed amended complaints-- first as of right and then with leave of court-- against the same defendants alleging essentially the same causes of action.

On April 11, 2007, plaintiffs filed a motion for leave to file a third amended complaint to add Nancy and Steven Auerbach, both in their individual capacity and in their representative capacity as principals of defendants Ridgehaven Village and Brookwood Management Company,

as defendants and to discontinue their claims alleging violations of 42 U.S.C. §§ 1985, 1986 and their Fourteenth Amendment rights. By order dated May 10, 2007, plaintiffs' motion was referred to Magistrate Judge Arlene R. Lindsay for a report and recommendation. By Report and Recommendation dated May 23, 2007, Magistrate Judge Lindsay recommended (1) that plaintiffs' motion be granted to the extent that it seeks to withdraw their claims alleging violations of 42 U.S.C. §§ 1985, 1986 and the Fourteenth Amendment and to add claims against Nancy and Steven Auerbach in their official capacity; and (2) that plaintiffs' motion be denied insofar as it seeks to add claims against Nancy and Steven Auerbach in their individual capacity. No timely objections have been filed to the Report and Recommendation and, indeed, plaintiffs have filed a third amended complaint in accordance with the Report and Recommendation and defendants Ridgehaven Village, Brookwood Management, Harvey Auerbach, Nancy Auerbach, Steven Auerbach, Michael Barone, Turhan "Tutu" Hollington, and Jean Walter have filed an answer with a cross claim against defendants DeVonne Turner, Deborah Edmondson and Joy Rodriguez and a counterclaim on behalf of Hollington against plaintiff Phoomahal. For the reasons stated herein, Magistrate Judge Lindsay's Report and Recommendation is adopted in its entirety.

I

Rule 72 of the Federal Rules of Civil Procedure permits magistrate judges to conduct proceedings on dispositive pretrial matters without the consent of the parties. Fed. R. Civ. P. 72(b). To accept the report and recommendation of a magistrate judge to which no timely objection has been made, the district judge need only be satisfied that there is no clear error on

the face of the record. See, Fed. R. Civ. P. 72(b); see Thomas v. Arn, 474 U.S. 140, 149, 106 S.Ct. 466, 88 L.Ed.2d 435 (1985); In re Adler, Coleman Clearing Corp., ___ F.Supp.2d ___, 2007 WL 2077142, at * 1 (S.D.N.Y. Jul. 19, 2007). Whether or not proper objections have been filed, the district judge may, after review, accept, reject, or modify any of the magistrate judge's findings or recommendations. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

II

No party has filed any objections to Magistrate Judge Lindsay's Report and Recommendation. As Magistrate Judge Lindsay's Report and Recommendation is not clearly erroneous, it is affirmed and adopted in its entirety as an Order of the Court.

SO ORDERED.


SANDRA J. FEUERSTEIN
United States District Judge

Dated: August 3, 2007
Central Islip, New York

Copies to:

Law Offices of Frederick K. Brewington
50 Clinton Street, Suite 501
Hempstead, New York 11550

Gartner Bloom & Greiper
885 Second Avenue, 26th Floor
New York, New York 10017

Deborah Edmondson, *pro se*
104A Village Drive
Ridge, New York 11961

Certilman Balin Adler & Hyman, LLP
90 Merrick Avenue, 9th Floor
East Meadow, New York 11554

Gould & Cimino
200 Madison Avenue
New York, New York 10016